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| Agency Name Public Service Commission | 1. Chapter Number 103 | 2. Date of Filing February 8, 2008 |
| 3. Regulation Number 103-607 | 4. Subject of Regulation Bonding or Other Security for Prepaid Local Exchange Telephone Service Carriers | |
| 5. Statutory Authority S.C. Code Ann. Section 58-3-140 | | |

6. Type of Filing

____ NOTICE OF GENERAL PUBLIC INTEREST
____ NOTICE OF DRAFTING
☒ PROPOSED REGULATION
____ EMERGENCY REGULATION
____ FINAL REGULATION FOR GENERAL ASSEMBLY REVIEW
____ RESUBMISSION OF WITHDRAWN REGULATION FOR GENERAL ASSEMBLY REVIEW
____ FINAL REGULATION EXEMPT FROM GENERAL ASSEMBLY REVIEW

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PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
CHAPTER 103
Statutory Authority: S.C. Code Section 58-3-140 (Supp. 2007)

26 S.C. Code Ann. Regs. 103-607, Bonding or Other Security for Prepaid Local Exchange Telephone Service Carriers

Preamble:

The Public Service Commission of South Carolina has determined that the need has arisen to establish a docket to determine whether and in what manner regulations should provide for bonding or other security to protect consumers of prepaid local exchange telephone service.

Section-by-Section Discussion

103-607 This Regulation is added to govern bonds or other security mechanisms for telecommunications carriers who provide prepaid local service.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2007-400-C. To be considered, comments must be received no later than 4:45 p.m. on April 2, 2008. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on **April 29, 2008, at 2:00 p.m.** in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined pursuant to S.C. Code Ann. Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION: 26 S.C. Code Ann. Regs. 103-607

Purpose: The purpose of the proposed regulation is to provide protection to consumers who do not receive services after they have paid money to receive prepaid telephone service. The proposed regulation states to whom the regulation applies, and it indicates the types of security mechanisms the Commission can require the telecommunications carrier to file.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2007)

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The addition of a regulation governing bonds or other security mechanisms for prepaid local exchange telecommunications carriers will benefit the public by protecting consumers who have invested in a service prior to receipt of the service.

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to creating Regulation 103-607 are minimal, the benefits include the promulgation of a regulation that develops criteria for provisioning of prepaid local telecommunications service.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

The regulation will have no detrimental effect on the environment or public health if the regulation is not implemented.

STATEMENT OF RATIONALE:

The purpose of 26 S.C. Code Ann. Regs. 103-607 is to create a regulation which governs the provisioning of prepaid local exchange telecommunications services regarding bonding or other forms of security. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

103-607 Regulation Governing Prepaid Local Telecommunications Carriers and Bonds or Other Security Mechanisms

This regulation applies to telecommunications carriers who provide prepaid local exchange services (requiring advance payment from customers prior to providing telecommunications service) and who have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. Advance payments include, but are not limited to, deposits, prepaid monthly service, and prepaid calling cards. The Commission may waive this requirement upon petition by the carrier if the carrier provides evidence of unbundled network element (UNE) leases during the prior calendar year exceeding \$500,000 or other evidence of financial stability as deemed appropriate by the Commission.

If a carrier requires prepayment for service, the Commission shall determine the type and the amount of bond or other security mechanism to be filed by the carrier with the Commission and the ORS. The Commission may order the carrier to file a performance bond, establish an escrow account, or post an irrevocable letter of credit or certificate of deposit.

a. Performance Bond. Performance bonds must be issued by an A-grade insurer having an office in the State of South Carolina and must be posted with the Commission prior to offering prepaid service. In determining the amount of the bond, the Commission may consider the number of customers served by the carrier multiplied by the retail price for the prepaid service. However,

the amount of the bond shall be no less than \$100,000.

b. Escrow Account. An escrow account shall not be a part of the carrier's standard business account. Further, the escrow agent shall not be employed by or have any business affiliation with the carrier. The Commission may require the account to equal the proposed monthly service multiplied by the number of customers served by the carrier or an amount equal to the annual prepayments collected as of July 1st or December 31st and require the filing of monthly reports showing escrow account activity.

c. Irrevocable Letter of Credit. An irrevocable letter of credit shall be issued by a financial institution authorized to do business in South Carolina. The amount of the irrevocable letter of credit shall be determined by the Commission; however, the amount of the letter of credit shall be no less than \$100,000. An updated irrevocable letter of credit shall be filed with the Commission annually.

d. Certificate of Deposit. The certificate of deposit shall be issued by a financial institution authorized to do business in South Carolina and shall be no less than \$50,000. In determining the amount of the certificate of deposit, the Commission may use, at a minimum, the following criteria: number of customers, retail price for prepaid service, and financial resources of the carrier.